

ferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to the Commission personnel, including Commissioners, pursuant to section 78d-1 of this title.

(June 6, 1934, ch. 404, title I, § 4B, as added Pub. L. 100-181, title III, § 308(a), Dec. 4, 1987, 101 Stat. 1255.)

REFERENCES IN TEXT

Reorganization Plan Numbered 10 of 1950 (64 Stat. 1265), referred to in text, is set out as a note under section 78d of this title.

PRIOR PROVISIONS

A prior section 78d-2, Pub. L. 87-592, § 2, Aug. 20, 1962, 76 Stat. 395, provided for subject matter similar to the provisions comprising this section, prior to repeal by section 308(b) of Pub. L. 100-181.

§ 78d-3. Appearance and practice before the Commission

(a) Authority to censure

The Commission may censure any person, or deny, temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found by the Commission, after notice and opportunity for hearing in the matter—

- (1) not to possess the requisite qualifications to represent others;
- (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or
- (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.

(b) Definition

With respect to any registered public accounting firm or associated person, for purposes of this section, the term “improper professional conduct” means—

- (1) intentional or knowing conduct, including reckless conduct, that results in a violation of applicable professional standards; and
- (2) negligent conduct in the form of—
 - (A) a single instance of highly unreasonable conduct that results in a violation of applicable professional standards in circumstances in which the registered public accounting firm or associated person knows, or should know, that heightened scrutiny is warranted; or
 - (B) repeated instances of unreasonable conduct, each resulting in a violation of applicable professional standards, that indicate a lack of competence to practice before the Commission.

(June 6, 1934, ch. 404, title I, § 4C, as added Pub. L. 107-204, title VI, § 602, July 30, 2002, 116 Stat. 794.)

§ 78e. Transactions on unregistered exchanges

It shall be unlawful for any broker, dealer, or exchange, directly or indirectly, to make use of

the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange within or subject to the jurisdiction of the United States to effect any transaction in a security, or to report any such transaction, unless such exchange (1) is registered as national securities exchange under section 78f of this title, or (2) is exempted from such registration upon application by the exchange because, in the opinion of the Commission, by reason of the limited volume of transactions effected on such exchange, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors to require such registration.

(June 6, 1934, ch. 404, title I, § 5, 48 Stat. 885.)

TRANSFER OF FUNCTIONS

For transfer of functions of Securities and Exchange Commission, with certain exceptions, to Chairman of such Commission, see Reorg. Plan No. 10 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265, set out under section 78d of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 78o, 78o-4, 78o-5, 78p, 78hh of this title; title 25 section 646.

§ 78f. National securities exchanges

(a) Registration; application

An exchange may be registered as a national securities exchange under the terms and conditions hereinafter provided in this section and in accordance with the provisions of section 78s(a) of this title, by filing with the Commission an application for registration in such form as the Commission, by rule, may prescribe containing the rules of the exchange and such other information and documents as the Commission, by rule, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(b) Determination by Commission requisite to registration of applicant as a national securities exchange

An exchange shall not be registered as a national securities exchange unless the Commission determines that—

- (1) Such exchange is so organized and has the capacity to be able to carry out the purposes of this chapter and to comply, and (subject to any rule or order of the Commission pursuant to section 78q(d) or 78s(g)(2) of this title) to enforce compliance by its members and persons associated with its members, with the provisions of this chapter, the rules and regulations thereunder, and the rules of the exchange.
- (2) Subject to the provisions of subsection (c) of this section, the rules of the exchange provide that any registered broker or dealer or natural person associated with a registered broker or dealer may become a member of such exchange and any person may become associated with a member thereof.
- (3) The rules of the exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors